



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2013 REGULAR SESSION

HOUSE BILL NO. 102

AS ENACTED

MONDAY, MARCH 11, 2013

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DATE March 21, 2013
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ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Adler

1 AN ACT relating to unemployment insurance.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔Section 1. KRS 341.415 is amended to read as follows:

- 4 (1) Any person who has received any sum as benefits under this chapter or any other
 5 state's unemployment insurance statutes or any United States Department of Labor
 6 unemployment insurance benefit program, providing the secretary has signed a
 7 reciprocal agreement with such other state or the United States Department of Labor
 8 as provided in KRS 341.145, while any condition for the receipt of such benefits
 9 was not fulfilled in his case, or while he was disqualified from receiving benefits, or
 10 if he has received benefits in weeks for which he later receives a back pay award,
 11 shall, in the discretion of the secretary, either have such sum deducted from any
 12 future benefits payable to him under this chapter or repay the Office of Employment
 13 and Training, Department of Workforce Investment, for the fund a sum equal to the
 14 amount so received by him. If after due notice, the recipient of such sum fails to
 15 remit or arrange for remittance of the sum, the sum may be collected in the manner
 16 provided in KRS 341.300(2) for collection of past-due contributions and any sums
 17 so collected shall be credited to the pooled account or the appropriate reimbursing
 18 employer account. The appropriate reimbursing employer account shall not
 19 receive credit for sums collected under this subsection or paragraph (b) of
 20 subsection (2) of Section 3 of this Act if a determination has been made an
 21 improper benefit payment established after October 21, 2013, was due to the
 22 reimbursing employer, or an agent of the employer, in accordance with the
 23 provisions of paragraphs (a) and (b) of subsection (4) of Section 2 of this Act.
 24 The sums collected shall be credited to the pooled account. If any [However, if
 25 the] benefit was paid as a result of office error as defined by administrative
 26 regulation, there shall be no recoupment or recovery of an improperly paid benefit,
 27 except by deduction from any future benefits payable to him under this chapter. For

1 purposes of this section, overpayments as a result of a reversal of entitlement to
2 benefits in the appeal or review process shall not be construed to be the result of
3 office error.

4 (2) At or after the commencement of an action under subsection (1) of this section,
5 attachment may be had against property of the recipient of improperly paid benefits
6 in the manner provided in KRS 341.300(3).

7 (3) A lien on a parity with state, county, and municipal ad valorem tax liens, is hereby
8 created in favor of the office upon all property of any recipient of improperly paid
9 benefits. This lien shall be for a sum equal to the amount of the overpayment finally
10 determined and shall continue until the amount of the overpayment plus any
11 subsequent assessment of additional improperly paid benefits, penalty, interest, and
12 fees are fully paid. The lien shall commence from such time as the recipient has
13 exhausted or abandoned the appeal procedure set forth in this chapter and the
14 amount of the overpayment is finally fixed. A notice of lien may be filed in the
15 same manner as that provided for in KRS 341.310.

16 (4) Any amount paid to a person as benefits, which he has been found liable to repay or
17 to have deducted from future benefits under subsections (1), (2), and (3) of this
18 section, which has neither been repaid nor so deducted within a period of five (5)
19 years following the last day of the benefit year within which it was paid, may be
20 deemed to be uncollectible and shall be permanently charged to the pooled account,
21 except that if such payment was made by reason of fraudulent representations, no
22 future benefits shall be paid such person within a period of ten (10) years of the last
23 day of the benefit year within which such payments were made at which time these
24 amounts may be declared uncollectible. Nothing in this subsection shall be deemed
25 to affect collection of improperly paid benefits pursuant to a judgment or other legal
26 remedy.

27 (5) In the event benefits have been paid as a result of false statement, misrepresentation,

1 or concealment of material information by a recipient of benefits and have not been
 2 repaid by the recipient within one (1) calendar year from the date of the first notice,
 3 interest at the rate of one and five-tenths percent (1.5%) per month or any part
 4 thereof, shall be imposed on and added to the unpaid balance each successive
 5 month, providing due notice has been given to the recipient. Such interest shall be
 6 paid into the unemployment compensation administration account.

7 (6) *A recipient of benefits paid as a result of false statement, misrepresentation, or*
 8 *concealment of material information by the recipient shall be assessed a fifteen*
 9 *percent (15%) penalty of the amount of improperly paid benefits. The penalty*
 10 *under this subsection shall be collected in the same manner as improperly paid*
 11 *benefits in this section and paid into the unemployment trust fund.*

12 (7) The deduction from future benefits specified in subsection (1) of this section shall
 13 be limited to twenty-five percent (25%) of the benefit amount otherwise payable
 14 under this chapter unless the overpayment resulted from a backpay award, false
 15 statement, misrepresentation, or concealment of material information by a recipient
 16 of benefits. In these instances, the rate of deduction shall be one hundred percent
 17 (100%). The rate of deduction from benefits payable by another state or the United
 18 States of America shall be determined by the applicable state or federal statute.

19 ➔Section 2. KRS 341.530 is amended to read as follows:

20 (1) The Office of Employment and Training, Department of Workforce Investment,
 21 shall maintain a reserve account for each subject employer making contributions to
 22 the fund and a reimbursing employer account for each subject employer making
 23 payment in lieu of contributions, and shall, except as provided in KRS 341.590,
 24 credit to such account the total amount of all contributions or benefit reimbursement
 25 paid by the employer on his own behalf. Nothing in this section or elsewhere in this
 26 chapter shall be construed to grant any employer or individual who is or was in his
 27 employ prior claims or rights to the amounts paid by him into the fund.

- 1 (2) Except as provided in subsection (3) of this section, all regular benefits paid to an
2 eligible worker in accordance with KRS 341.380 plus the extended benefits paid in
3 accordance with KRS 341.700 to 341.740, subject to the provisions of paragraphs
4 (a) and (b) of this subsection, shall be charged against the reserve account or
5 reimbursing employer account of his most recent employer. No employer shall be
6 deemed to be the most recent employer unless the eligible worker to whom benefits
7 are payable shall have worked for such employer in each of ten (10) weeks whether
8 or not consecutive back to the beginning of the worker's base period.
- 9 (a) Subject employers, which are not governmental entities as defined in KRS
10 341.069, shall be charged one-half (1/2) of the extended benefits paid in
11 accordance with KRS 341.700 to 341.740; and
- 12 (b) Subject employers which are governmental entities, as defined in KRS
13 341.069, shall be charged for all extended benefits paid in accordance with
14 KRS 341.700 to 341.740 for compensable weeks occurring on or after January
15 1, 1979, and for one-half (1/2) of the extended benefits paid for compensable
16 weeks occurring prior to such date.
- 17 (3) Notwithstanding the provisions of subsection (2) of this section, benefits paid to an
18 eligible worker and chargeable to a contributing employer's reserve account under
19 such subsection shall be charged against the pooled account if such worker was
20 discharged by such employer for misconduct connected with his most recent work
21 for such employer, voluntarily left his most recent work with such employer without
22 good cause attributable to the employment, or the employer has continued to
23 provide part-time employment and wages, without interruption, to the same extent
24 that was provided from the date of hire, and the employer within a reasonable time,
25 as prescribed by regulation of the secretary, notifies the office, in writing, of the
26 alleged voluntary quitting, discharge for misconduct or continuing part-time
27 employment; provided, however, that no employer making payments to the fund in

1 lieu of contributions shall be relieved of charges by reason of this subsection.

2 (4) Notwithstanding the provisions of subsection (3) of this section, no contributing
 3 employer's reserve account shall be relieved of any charges for benefits relating
 4 to an improper benefit payment to a worker established after October 21, 2013, if:

5 (a) The improper benefit payment was made because the employer, or an agent
 6 of the employer, was at fault for failing to respond timely or adequately to
 7 the request of the secretary for information relating to a claim for benefits;
 8 and

9 (b) The employer, or an agent of the employer, has a pattern of failing to
 10 respond timely or adequately to requests under paragraph (a) of this
 11 subsection. For purposes of this paragraph, a "pattern of failing" means at
 12 least six (6) failures occur in a calendar year or the failure to respond to two
 13 percent (2%) of such requests in a calendar year, whichever is greater.

14 (5) Any determination under subsection (4) of this section shall be transmitted to the
 15 last known physical or electronic address provided by the employer and may be
 16 appealed in accordance with the provisions of KRS 341.420(2).

17 (6) Each subject employer's reserve account or reimbursing account shall, unless
 18 terminated as of the computation date (as defined in subsection (5) of KRS
 19 341.270), be charged with all benefits paid to eligible workers which are chargeable
 20 to such reserve account or reimbursing account under subsection (2) of this section.
 21 A subject employer's reserve account or reimbursing account shall be deemed to be
 22 terminated if he has ceased to be subject to this chapter, and his account has been
 23 closed and any balance remaining therein has been transferred to the fund's pooled
 24 account or to a successor's account as provided in KRS 341.540 or has been
 25 refunded if the employer is a reimbursing employer.

26 ~~(7)(5)}~~ Notwithstanding subsection (1) of this section, two (2) or more nonprofit
 27 (Internal Revenue Code sec. 501(c)(3) organizations may jointly request the

1 secretary to establish a group reserve account or reimbursing account for such
2 nonprofit organizations. Two (2) or more governmental entities may jointly request
3 the secretary to establish a group reserve account or reimbursing account, and once
4 established, such account shall remain in effect at least two (2) calendar years and
5 thereafter until either dissolved at the discretion of the secretary or upon filing
6 application for dissolution by the group members. Each member of a group shall be
7 jointly and severally liable for all payments due under this chapter from each or all
8 of such group members. The secretary shall prescribe such procedures as he deems
9 necessary for the establishment, maintenance, and dissolution of a group reserve
10 account or reimbursing account.

11 ~~(8){{(6)}}~~ Any subject contributing employer may at any time on or before December
12 31, 2011, make voluntary payments to the fund, additional to the contributions
13 required under KRS 341.260 and 341.270. Effective January 1, 2012, any subject
14 contributing employer with a negative reserve account balance may make voluntary
15 payments to the fund every other calendar year, in addition to the contributions
16 required under KRS 341.260 and 341.270. Notwithstanding any other provision of
17 this chapter, contributions paid on or before the computation date and voluntary
18 payments made within twenty (20) days following the mailing of notices of new
19 rates shall be credited to an employer's reserve account as of the computation date,
20 provided no voluntary payments shall be used in computing an employer's rate
21 unless the payment is made prior to the expiration of one hundred and twenty (120)
22 days after the beginning of the year for which the rate is effective. Voluntary
23 payments by any employer shall not exceed any negative balance they may have in
24 their reserve account as of the computation date. Any employer who is delinquent in
25 the payment of contributions, penalties, or interest as of the computation date shall
26 be entitled to make voluntary payments only after the amount of the delinquency is
27 paid in full.

1 ➔ Section 3. KRS 341.550 is amended to read as follows:

2 (1) The cabinet shall maintain a pooled account for contributing employers to which
3 shall be credited:

4 (a) Payments received from the federal government under the provisions of
5 Section 204(a)(1) of the "Federal-State Extended Unemployment
6 Compensation Act of 1970," and amendments thereto;

7 (b) All realized earnings and gains on investments of the fund;

8 (c) Except as provided in KRS 341.540, any balance remaining in the reserve
9 account of any previously subject contributing employer after such employer
10 has ceased to be subject to this chapter;

11 (d) Any payments into or amounts in the fund not allocable to any employer's
12 reserve account; and

13 (e) Any payments collected under subsection (2) of this section.

14 (2) (a) Except as provided in subsection (4) of Section 2 of this Act, any benefits
15 paid through error which would otherwise have been chargeable to the reserve
16 account of a contributory employer shall be charged against the pooled
17 account. However, no employer making payments to the fund in lieu of
18 contributions shall be relieved of charges by reason of this subsection.

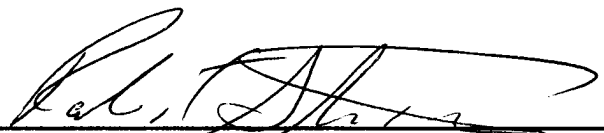
19 (b) The repayment of benefits paid erroneously as provided in subsection (1) of
20 KRS 341.415 shall be credited to the pooled account. The pooled account
21 shall be credited with any sums deducted from future benefits as provided in
22 KRS 341.415 and shall be credited to the pooled account, provided the
23 benefits were charged to the pooled account by reason of KRS 341.530(3), or
24 paragraph (a) of this subsection. Except as provided in subsection (1) of
25 Section 1 of this Act, if the benefits were charged to and paid by any employer
26 making payments to the fund in lieu of contributions, the amount of the
27 repayment or the sum deducted from future benefits shall be credited to the

1 reimbursing account of that employer, and may upon written request from the
2 employer be refunded without interest.

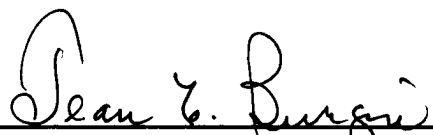
3 (3) One-half (1/2) of the benefits paid to an eligible worker in accordance with KRS
4 341.700 to 341.740 shall be charged against the pooled account, except that during
5 a period in which federal payments to states under Section 204 of the Federal-State
6 Extended Unemployment Compensation Act of 1970 are reduced under an order
7 issued under Section 252 of the Balanced Budget and Emergency Deficit Control
8 Act of 1985 (Public Law 99-177), one-half (1/2) of the benefits paid to an eligible
9 worker in accordance with KRS 341.700 to 341.740, reduced by an amount equal to
10 the difference of one-half (1/2) of the benefits paid to an eligible worker in
11 accordance with KRS 341.700 to 341.740 and the amount of the federal payment,
12 shall be charged against the pooled account.



Speaker-House of Representatives



President of Senate

Attest: 

Chief Clerk of House of Representatives

Approved 

Governor

Date 3-21-13